

HOUSE BILL 2517

By Curcio

AN ACT to amend Tennessee Code Annotated, Title 16, Chapter 2; Title 39, Chapter 17, Part 4 and Section 49-2-116, relative to the administration of justice.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-17-417(k), is amended by deleting the subsection and substituting instead the following:

(k) A violation of this section or a conspiracy to violate this section where the recipient or the intended recipient of the controlled substance is under eighteen (18) years of age shall be punished one (1) sentencing range higher than the sentencing range otherwise appropriate for the defendant.

SECTION 2. Tennessee Code Annotated, Section 39-17-418(d), is amended by deleting the subsection and substituting instead the following:

(d) A violation of subsections (a) or (b), where there is casual exchange to a minor from an adult who is at least two (2) years the minor's senior, and who knows the recipient is a minor, shall be punished as a felony according to § 39-17-417.

SECTION 3. Tennessee Code Annotated, Section 39-17-432(a), is amended by deleting the language "and mandatory minimum sentences required" and substituting instead "sentences authorized".

SECTION 4. Tennessee Code Annotated, Section 39-17-432(b)(1), is amended by deleting the subdivision and substituting instead the following:

(1) A violation of § 39-17-417, or a conspiracy to violate the section, may be punished one (1) classification higher than is provided in § 39-17-417(b)-(i) if the violation or the conspiracy to violate the section occurs:

(A) On the grounds or facilities of any school; or

(B) Within five hundred feet (500') of or within the area bounded by a divided state or federal highway, whichever is less, the real property that comprises a public or private elementary school, middle school, secondary school, preschool, child care agency, public library, recreational center, or park.

SECTION 5. Tennessee Code Annotated, Section 39-17-432(b)(2), is amended by deleting the language "shall also be" and substituting instead "may also be".

SECTION 6. Tennessee Code Annotated, Section 39-17-432(b)(3), is amended by deleting the language "but shall be subject to" and substituting instead "but may be subject to".

SECTION 7. Tennessee Code Annotated, Section 39-17-432, is amended by deleting subsections (c), (d), (e), and (f).

SECTION 8. Tennessee Code Annotated, Section 39-17-432, is amended by adding the following language as a new subsection:

( ) Notwithstanding any other law, a court may waive the sentencing enhancements of subsection (b) and sentence the defendant as provided by § 39-17-417(b)-(i) for the violation if the court finds that the violation occurred:

(1) In a private residence or dwelling;

(2) In a motor vehicle stopped by a law enforcement officer within the prohibited zone of a public or private elementary school, middle school, secondary school, preschool, child care agency, public library, recreational center, or park for a violation of a provision of title 55, chapter 8 or 9; or

(3) During a time when children are not present at the public or private elementary school, middle school, secondary school, preschool, child care agency, public library, recreational center, or park.

SECTION 9. Tennessee Code Annotated, Section 39-17-438(d)(3), is amended by deleting the subdivision and substituting instead the following:

If the violation of this section involved the delivery, dispensing, or sale of a controlled substance analogue to a minor, the person shall be punished one (1) sentencing range higher than the punishment provided by this subsection (d) for delivering, dispensing, or selling to an adult.

SECTION 10. Tennessee Code Annotated, Section 49-2-116(c), is amended by deleting the subsection and substituting instead the following:

(c) A school safety zone is the territory extending five hundred feet (500') from school property or within the area bounded by a divided state or federal highway, whichever is less.

SECTION 11. Tennessee Code Annotated, Section 49-2-116(d), is amended by deleting the subsection and substituting instead the following:

(d) The director of schools, with the approval of the board of education, may develop a method of marking school safety zones, including the use of signs. Signs or other markings shall be located in a visible manner on or near each school indicating that such area is a school safety zone, that such zone extends five hundred feet (500') from school property or within the area bounded by a divided state or federal highway, whichever is less, and that the delivery or sale of a controlled substance or controlled substance analogue to a minor in the school safety zone may subject the offender to an enhanced punishment. The state board of education shall assist the LEA in complying with the posting provisions of this subsection (d).

SECTION 12. This act shall take effect July 1, 2020, the public welfare requiring it, and applies to offenses committed on or after that date.